

REMARKS/ARGUMENTS

Claims 1-13, 15, 17-24 and 26-35 are now pending in this application. Claims 1, 18, and 31 are independent claims. Claim 31 has been amended. Claims 14, 16, and 25 have been cancelled.

Claim Rejections – 35 USC § 103

Claims 1-4, 7-9, 11-13, 15-17 and 31-35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor, United States Patent Number: 4,825,496 (hereinafter: Taylor), in view of Strickland, United States Patent Number: 3,988,799 (hereinafter: Strickland). Claims 18, 19, 21, 22, 26, 27, 29, and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of Strickland, and further in view of Walker et al., United States Patent Number: 5,156,191 (hereinafter: Walker). Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dickerson, United States Patent Number: 6,523,209 (hereinafter: Dickerson) in view of Strickland. Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of Strickland, and further in view of James, Jr., United States Patent Number: 3,138,815 (hereinafter: James). Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of Strickland, and further in view of Walker. Claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of Strickland and Walker and further in view of Cramer, United States Patent Number: 689,464 (hereinafter: Cramer). Claim 23 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of Strickland and Walker. Claim 24 was rejected under 35 U.S.C. § 103(a) as being unpatentable over James, Strickland, and Walker. Claim 28 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor, Strickland, and Walker. Applicants respectfully traverse these rejections.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined)

must teach or suggest all the claim limitations." (emphasis added) (MPEP § 2143). "If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious." (emphasis added) *In re Fine*, 837 F. 2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988). Applicants respectfully submit that independent Claims 1, 18, and 31 include elements that have not been disclosed, taught or suggested by any of the references cited by the Patent Office, either alone or in combination.

Independent claims 1, 18 and 31 of the present invention each generally recite a marine and pool cleaner having a hanger coupled with a transport assembly, the hanger being configured for storing the transmission assembly. In rejecting independent claims 1, 18, and 31, the Patent Office cited Taylor as teaching a cleaning apparatus having a transport assembly (11, 12) and a transmission assembly (61). (Office Action, Page 2). However, the Patent Office noted that Taylor fails to teach a hanger as claimed in the present invention. (Office Action, Pages 2 and 6). The Patent Office then cited Strickland as teaching a scrubbing apparatus having a handheld cleaning device which is hung on a frame by a hanger (i.e., hook means). (Office Action, Pages 2 and 6). Based on the above, the Patent Office contended that it would have been obvious to take the hanger of Strickland and couple it with the transport assembly of Taylor to arrive at the claimed invention. (Office Action, Pages 2, 3, and 6).

Neither Taylor, nor Strickland, either alone or in combination, disclose, teach or suggest the above-referenced elements of the claimed invention. The Patent Office *clearly* cited that Taylor does *not* teach a hanger coupled with the transport assembly. (Office Action, Pages 2 and 6). Strickland teaches a body scrubbing apparatus (11) having a handheld cleaning device (i.e., a brush arm component, 47) that, when not in use, may be hung on a hanger device (i.e., a hook element, 68), attached to the body scrubbing apparatus 11. (Strickland, Column 3, Lines 7-12, Column 10, Lines 41-43). However, Strickland does not teach a hanger device configured for storing a transmission assembly, as claimed in the present invention. In Strickland, the transmission assembly (i.e., the flexible shaft component, 33), is not stored. (*see* Strickland, FIG. 1). In contrast, in the present invention, a marine and pool cleaner is taught in which the hanger allows for storage of the *transmission assembly* (ex.-a flex-drive cable) when the marine

and pool cleaner is not in use. (Present Application, Page 9, Paragraph 0017). By storing the transmission assembly, the claimed hanger of the present invention may prevent damage (i.e.-kinking, being run over, etc.) to the transmission assembly when the marine and pool cleaner is moved from place to place via the coupled transport assembly. Given the benefits listed above, if it would have been obvious to configure the hanger of Strickland to store a transmission assembly, rather than just the handheld cleaning device, certainly it would have been done. However, in Strickland, storage of the transmission assembly (33) is not addressed.

Based on the rationale above, Applicants contend that none of the references cited by the Patent Office against the present invention, either alone or in combination, discloses, teaches or suggests a hanger coupled with a transport assembly, and configured for storing a transmission assembly as claimed in Claims 1, 18 and 31 of the present invention and therefore, the above-cited references do not preclude patentability of the present invention under 35 U.S.C. § 103(a). Applicants further contend that it would not have been obvious to one of ordinary skill in the art at the time of the present invention to provide a hanger as claimed in the present invention. As a result, a *prima facie* case of obviousness has not been established for independent Claims 1, 18 and 31. Thus, independent Claims 1, 18 and 31 are believed allowable. Further, Claims 2-13, 15 and 17 (which depend from claim 1), Claims 19-24 and 26-30 (which depend from claim 18) and Claims 32-35 (which depend from claim 31) are therefore allowable.

Further, there would have been no motivation for one of ordinary skill in the art at the time of the present invention to combine or modify Taylor and Strickland to arrive at the claimed invention. Taylor teaches a transmission assembly (i.e., drive line, 61) which is not stored on a hanger, but rather, may be stored in a well of a transport assembly. (Taylor, Column 8, Lines 21-24). Further, the transmission assembly (61) of Taylor is not conducive to being stored upon a hanger, unlike the transmission assembly of the present invention, because it is not flexible enough to be coiled into a reel. (Taylor, Column 8, Lines 21-22). In the present invention, the hanger allows for storage of the transmission assembly in a coiled orientation. (*see* Present Invention, FIGS. 1 and 3, page 9, paragraph 0017). Although, Strickland teaches a hanger (i.e., hook means) to be

utilized for storage, it is not coupled to a transport assembly and it is not utilized for storing a transmission assembly. Therefore, it would not have been obvious for one of ordinary skill in the art at the time of the present invention to modify or combine the cited references to arrive at the hanger of the claimed invention. Upon looking at Taylor, which basically teaches a backpack pressure washer, one would not have been motivated to look to the hook member of Strickland, which basically teaches a shower or bathtub sprayer, for storing a transmission assembly because Taylor actually teaches away from coiling the transmission assembly or storing it upon a hanger. (Taylor, Column 8, Lines 21-22). Further, someone looking at the hook means of Strickland would not have been motivated to look to Taylor to find a transport assembly for coupling with the hook member because the body scrubbing apparatus of Strickland is designed for mounting upon a bathroom or shower wall and so, would not be used with a transport assembly. (Strickland, Column 1, Lines 1-11).

Based on the above rationale, there would have been no motivation for one of ordinary skill at the time of the present invention to combine the above-cited references.

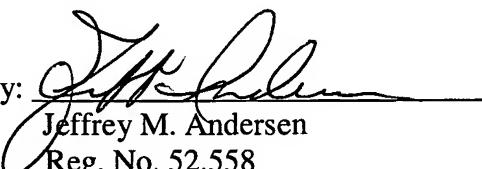
“The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. It is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that “one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.” *In re Oetiker*, 977 F.2d 1443, 24 USPQ 2d 1443 (Fed. Cir. 1992) quoting *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988).

The Patent Office has proceeded to *impermissibly* use the present patent application as a basis for the motivation to combine or modify the prior art to arrive at the claimed invention and, in light of the current amendments, has failed to make a *prima facie* case of obviousness against claims 1, 18, and 31. Thus, claims 1, 18, and 31 should be allowed over the prior art of record. Claims 2-13, 15 and 17 (which depend from claim 1), Claims 19-24 and 26-30 (which depend from claim 18), and claims 32-35 (which depend from claim 31) should also be allowed.

CONCLUSION

In light of the forgoing, reconsideration and allowance of the pending claims is earnestly solicited.

Respectfully submitted on behalf of
Porter-Cable Corporation,

By: 
Jeffrey M. Andersen
Reg. No. 52,558

Dated: July 25, 2005

Jeffrey M. Andersen
Suiter • West • Swantz PC LLO
14301 FNB Parkway, Suite 220
Omaha, NE 68154
(402) 496-0300 telephone
(402) 496-0333 facsimile